Calendar No. 362

102D CONGRESS *1st Session*	SENATE	REPORT 102-238

EXPANDING THE BOUNDARIES OF STONES RIVER NATIONAL BATTLEFIELD

NOVEMBER 23 (legislative day, NOVEMBER 20), 1991.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 2370]

The Committee of Energy and Natural Resources to which was referred the Act (H.R. 2370) to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the Act, as amended do pass.

The amendments are as follows:

1. On page 2, lines 3 and 4, strike "numbered 327/80,004A, and dated September 1991" and insert in lieu thereof, "numbered 327/80,004B, and dated November 1991".

2. On page 2, strike lines 8 through 19 in their entirety and insert in lieu thereof the following:

> "(2)(A) Before acquiring any lands under this Act where the surface of such lands has been substantially disturbed or which are believed by the Secretary to contain hazardous substances, the Secretary shall prepare a report on the potential hazardous substances associated with such lands and the estimated cost of restoring such lands, together with a plan of a remedial measures necessary to allow acquisition of such lands to proceed in a timely manner, consistent with the requirements of subparagraph (B). The Secretary shall submit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.
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> "(B) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion

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thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601))."

Purpose of The Measure

The purpose of H.R. 2370, as ordered reported, is to modify the boundaries of the Stones River National Battlefield in Tennessee to add approximately 308 acres to the site.

Background and Need

The battle of Stones River, fought from December 31, 1861 to January 2, 1863, near Murfreesboro, Tennessee, was one of the hardest-fought battles of the Civil War. The Union's Army of the Cumberland, under General William Rosecrans, had moved south from Nashville toward Murfreesboro in an attempt to drive Confederate General Braxton Bragg's Army of Tennessee out of the State.

In an intense battle between two relatively evenly matched armies (there were approximately 44,000 Federal troops and 34,000 Confederate soldiers), the Union troops eventually forced the Confederates to retreat. However, over 23,000 men were killed in the battle, making the battle of Stones River one of the bloodiest battles of the Civil War.

After the battle, Rosecrans occupied Murfreesboro, and subsequently launched successful attacks from the city on the Confederate rail center in Chattanooga, hastening the end of the war.

The battlefield was first established as a military park in 1937, and transferred from the War Department to the National Park Service in 1933. The site now includes both the park and a national cemetery. In 1987, Public Law 100-205 expanded the battlefield and authorized the Secretary of the Interior to enter into an agreement with the city of Murfreesboro whereby the Secretary would provide for land acquisition and construction of a trail to link the battlefield with Fortress Rosecrans, the largest earthwork built during the war, with the city to operate the trail. The agreement also authorized the city to operate and maintain the fortress.

Stones River National Battlefield has been identified by Secretary Lujan in his American Battlefield Protection Plan as one of the 25 battlefield acquisition priorities in the nation. The battlefield is located in the fastest growing section of the state and increased urban development threatens many historic significant parcels of land outside of the current battlefield boundary.

Legislative History

H.R. 2370 passed the House of Representatives by a voice vote on September 24, 1991. Companion legislation, S. 1772, was introduced by Senators Sasser and Gore on September 30, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on both bills on November 7, 1991.

At the business meeting on November 20, 1991, the Committee on Energy and Natural Resources ordered H.R. 2370, as amended, favorably reported.

Committee Recommendations and Tabulation of Voters

The Committee on Energy and Natural Resources, in open business session on November 20, 1991, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 2370, if amended as described herein.

The roll call vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Bradley	
Mr. Bingaman*	
Mr. Wirth	
Mr. Conrad*	
Mr. Akaka*	
Mr. Fowler*	
Mr. Shelby*	
Mr. Wellstone	
Mr. Wallop	
Mr. Hatfield*	
Mr. Domenici	
Mr. Murkowski	
Mr. Nickles	
Mr. Burns	
Mr. Craig	
Mr. Seymour	
Mr. Garn	

*Indicates voted by proxy

Committee Amendments

During the consideration of H.R. 2370, the Committee adopted two amendments. The first amendment changes the battlefield map reference to reflect the exclusion of a 24.15 acre parcel from the proposed addition to the battlefield.

The second amendment adopted by the Committee clarifies that the Secretary of the Interior is prohibited from acquiring lands determined by the Secretary to be contaminated with hazardous wastes.

Section-by-Section Analysis

Paragraphs (1) and (2) of H.R. 2370 amended section 1 of Public Law 100-205 (which amended the boundaries of the Stones River National Battlefield), by changing the map reference to include approximately 308 additional acres within the battlefield boundary, and by adding new paragraphs (2) and (3) to section 1(b).

The new paragraph (2)(A) directs the Secretary of the Interior (the "Secretary"), before acquiring any lands whose surface has been substantially disturbed or which are believed by the Secretary to contain hazardous substances, to prepare a report on the extent of such substances, the estimated cost for restoration, and a reme-

dial plan and to submit such report to the appropriate Congressional committees.

Subparagraph (B) prohibits the Secretary from acquiring lands under the Act if the Secretary determines that the lands or portions of it have been contaminated with hazardous substances, as defined in the Comprehensive Environmental Response, Compensation and Liability Act.

The new paragraph (3) allows the owner of improved residential property with the boundaries of the battlefield a right of use and occupancy of the property for continued residential use, subject to a determination by the Secretary that the property is not necessary for administration, development, access, or public use. The reservation may be for a term not to exceed 25 years, or ending upon the death of the owner or the owner's spouse whichever is later. The owner shall elect the term to be retained.

Paragraph (3) of H.R. 2370 replaces section 2 of Public Law 100-205 to authorize the Secretary to enter into an agreement with the city of Murfreesboro, Tennessee, with provisions that if the city agrees to acquire sufficient interest in land to construct a trail linking the battlefield with Fortress Rosecrans, and to construct, operate, and maintain such trail, the Secretary shall transfer to the city the funds available to the Secretary for land acquisition and construction for the trail. The Secretary is also to provide technical assistance to the city for the trail's development and planning.

In addition, the agreement is to provide that the Secretary shall accept the city's donation of the remnants of Fortress Rosecrans for preservation and interpretation of the fortress. The agreement authorizes the Secretary, in administering Fortress Rosecrans, to enter a cooperative agreement with the city of Murfreesboro, Tennessee, on a non-reimbursable basis, to provide for rescue, firefighting, and law enforcement services.

Paragraph (4) of H.R. 2370 redesignates section 3 of Public Law 100-205 as section 4 and adds a new section 3. Subsection (a) of the new section 3 directs the Secretary to prepare a plan for the preservation and interpretation of Redoubt Brannan.

Subsection (b) directs the Secretary to update the general managment plan for the battlefield on or before March 31, 1993.

Subsection (c) directs the Secretary to provide technical assistance to the city and to Rutherford County in the development of zoning ordinances and other land use controls that would help preserve historically significant areas adjacent to the battlefield.

Subsection (d) authorizes the Secretary to make minor revisions in the battlefield boundaries if the planning conducted pursuant to paragraphs (a) and (b) indicate that such revisions are necessary. Prior to any boundary modification, the Secretary is required to notifiy the appropriate Congressional Committees and provide an opportunity for public comment.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chariman will

request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2370. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 2370, as ordered reported.

Executive Communications

On October 29, 1991, the Committee on Energy and Natural Resouces requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 2370. These reports had not been received at the time the report on H.R. 2370 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Department of the Interior at the Subcommittee hearing follows:

Statement of Jerry Rogers, Associate Director for Cultural Resources, National Park Service, Department of the Interior

Thank you for the opportunity to offer the Department of the Interior's views on S. 1772 and H.R. 2370, bills to expand the Stones River National Battlefield in Tennessee. The two bills are drafted in different formats, but they are substantively the same.

We recommend enactment of S. 1772 or H.R. 2370, but only if amended to address the following three areas of concern: (1) the requirement that the Secretary accept transfer of ownership of Fortress Rosecrans must be deleted; (2) the Secretary must clearly be authorized to exclude tracts found unsuitable for park purposes due to the presence of hazardous materials; and (3) the time for completion of the General Management Plan and the Redoubt Brannan plan must be extended.

I must stress, Mr. Chairman, the critical nature of these concerns, especially the first and second listed, and how our support for enactment hinges upon these concerns being addressed.

Mr. Chairman, authorized in 1927, Stones River National Battlefield is the scene of one of the hardest-fought battles of the Civil War. The Battle of Stones River, fought on December 31, 1862, through January 2, 1863, was the first major engagement in the Union's 2-year effort to drive a

wedge through the Confederacy along railroads running southeastward through Tennessee and Georgia. The forces were about equal in number, but the Confederate Army under General Braxton Bragg failed to halt the advance of the Union Army led by General William S. Rosecrans. Fighting to utter exhaustion, more than 23,000 of the 83,000 combatants fell in the battle, about the same number of casualties as in the Battle of Shiloh. In the end, Murfreesboro was left in the hands of the exhausted Union Army.

Mr. Chairman, the Secretary of the Interior's "American Battlefield Protection Program" identified Stones River National Battlefield as one of 25 "priority battlefields" in the Nation and one of two priority battlefields in the State of Tennessee. "Priority battlefields" are considered by the Secretary to be highly significant and imminently threatened by urban encroachment. Battlefield lands outside the current park boundary, once agricultural, are now giving way to residential, commercial and industrial development. The Interstate 24 corridor, the proposed Interstate 840 connector and the "Thompson Lane Extension" have and will support residential, commercial and industrial development on historic, "greater battlefield" lands.

S. 1772 and H.R. 2370 call for a new boundary for Stones River National Battlefield. The areas contained within the boundary, for the most part, were part of the greater 3,700-acre battlefield. The park's 1980 General Management Plan proposed the acquisition of 284 acres in an effort to address resource preservation and interpretation. That proposal was refined several times. It became the basis for the boundaries defined by Public Law 100-205, which added 53 acres to the battlefield. The National Park Service is in the process of acquiring those lands. Exclusive of Fortress Rosecrans, the current proposal would add approximately 300 acres of land adjacent to the park, and which are part of the greater battlefield, to the boundaries of Stones River National Battlefield. Although we have not conducted a boundary study, we have closely examined the lands proposed for inclusion in the park. Also, the General Management Plan of 1980 refers to many of the tracts included in the proposal. We agree that most of the lands included in S. 1772 and H.R. 2370 will contribute to the battlefield story.

Problems exist, however, on some of these tracts. Several have been used for dirt mining and land fill activities, and some unsupervised dumping has occurred. It is possible that hazardous waste or other contaminants have been placed on these tracts. Most of the disturbed tracts are located in the vicinity of the "Artillery Monument" portion of the battlefield and are part of an approximately 110-acre addition. The Interior Department's policy is to not acquire any lands if an expenditure of Departmental funds is required for cleanup of such lands, except at the direction of Congress, or for good cause with the approval of the

Secretary. We are therefore pleased that S. 1772 and H.R. 2370 include a provision in new section 1(b)(2) that endorses this policy. But we ask that our ability to deal with potential hazardous waste problems be strengthened. This can be done by amending section 3(d), which authorizes minor boundary adjustments if the General Management Plan and the Redoubt Brannan planning activities indicate the need. The amendment should add section 1(b)(2) planning activities as a basis for making the minor boundary adjustments.

We estimate the total cost of acquisition to be in the range of $5.5 to $7.3 million. These acquisition costs might be reduced by up to $1 million if any tracts that might be found unsuitable because of hazardous wastes are excluded. Excluding lands with hazardous wastes would not only save acquisition costs, it could also save the costs of cleanup, which could be substantial.

Within the area proposed to be added under both bills there are approximately 25 improvements, located on the tracts adjacent to the current boundaries of the main battlefield unit. These consist of single family residences, duplexes, trailers and a Civil War curio shop, which is situated along Old Nashville Highway just west of the park's main entrance. In the short run, the National Park Service does not object to the continuance of these uses. But the long-term implications of land use changes that may occur in this community and that could alter significantly the historic scene is of great concern. We therefore support the language in both bills authorizing the National Park Service to acquire those improved tracts subject to a reservation of use and occupancy for residential purposes.

Mr. Chairman, under current law the Secretary is authorized to enter into an agreement with the city of Murfreesboro that would include three provisions: (1) the Secretary would acquire land and, upon that land, construct a recreational trail; (2) the Secretary would preserve the existing remnants of Fortress Rosecrans, which are now owned by the city; and (3) the city would operate and maintain the trail, and own, operate and maintain the fortress. It is fitting that the city have these responsibilities, since both the trail and Fortress Rosecrans are considered to be of local interest and/or significance, and they are not appropriate resources to include in the battlefield park. Another reason that Fortress Rosecrans should not be added to the park is because the integrity of the Fortress has been severely compromised. However, under the provisions of either bill's new section 2, if the Secretary enters into an agreement under which the city *might* accept responsibility of the trail, the Secretary would be *required* to accept transfer of, and management responsibility for, Fortress Rosecrans. Under that scenario, Stones River National Battlefield could end up with responsibility for two, essentially local, resources that we do not need or want. We therefore strongly urge that the bill be amended either to

retain current law or, preferably, to allow the Secretary to transfer total responsibility for the trail, including ownership, to the city. We also recommend that those tracts of land located on the northeast side of Thompson Lane that are included in the new boundary proposal, but which would serve only as access and parking for the river trail, be excluded from the boundary and become the responsibility of the city.

Mr. Chairman, new section 3 in both bills directs the Secretary to undertake several planning and technical assistance efforts. A plan would be prepared for Redoubt Brannan, once an "interior fort" of the greater Fortress Rosecrans; the park's General Management Plan, approved in 1980, would be updated; and the Secretary could provide technical assistance to local governments in efforts to preserve historically significant areas adjacent to the park. These provisions are in accord with the Secretary's American Battlefield Protection Program, which encourages partnerships between Federal and local officials in protecting historic battlefields. However, the due dates for the planning documents are unrealistic. If specific legislative requirements for these plans are deemed necessary, we recommend that the due date for the Redoubt Brannan plan be changed to September 30, 1992, and the due date for the GMP update be changed to September 30, 1993.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the act H.R. 2370, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF DECEMBER 23, 1987

AN ACT To amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes

Be it enacted by the Senate and House of Representatives of the Untied States of America in Congress assembled,

SECTION 1. STONES RIVER NATIONAL BATTLEFIELD.

(a) EXPANSION OF STONES RIVER NATIONAL BATTLEFIELD.—In furtherance of the Act of March 3, 1927 (44 Stat. 1399), as amended, the boundary of Stones River National Battlefield (hereinafter referred to as "battlefield") is hereby revised to include the lands generally depicted on the map entitled "Boundary Map, Stones River National Battlefield" [numbered 327/80,001, and dated March 1987] *numbered 327/80,004B, and dated November 1991.* The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior

and in the office of the Superintendent of the Stones River National Battlefield.

(b) ACQUISITION OF LANDS.—*(1)* The Secretary of the Interior (hereinafter referred to as "Secretary") is hereby authorized to acquire lands or interests therein within the boundary of the battlefield by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the State of Tennessee or any political subdivision thereof may be acquired only by donation. Lands and interests therein acquired pursuant to this Act shall become part of the battlefield, subject to all the laws and regulations applicable thereto.

(2)(A) Before acquiring any lands under this Act where the surface of such lands has been substantially disturbed or which are believed by the Secretary to contain hazardous substances, the Secretary shall prepare a report on the potential hazardous substances associated with such lands and the estimated cost of restoring such lands, together with a plan of the remedial measures necessary to allow acquisition of such lands to proceed in a timely manner, consistent with the requirements of subparagraph (B). The Secretary shall submit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(B) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)).

(3)(A) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed 25 years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever is later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner.

(B) Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(C) This paragraph applies only to owners who have reached the age of majority.

(D) As used in this paragraph, the term 'improved property' means a detached, year-round noncommercial residential dwelling, the construction of which was begun before the date of enactment of this paragraph, together with so much of the land of which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purposes of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

[SEC. 2. AGREEMENT.

[The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, under which (1) the Secretary shall acquire sufficient interest in land and shall construct thereon a trail linking the battlefield with Fortress Rosecrans, (2) the city shall operate and maintain the trail in accordance with standards approved by the Secretary, and (3) the Secretary shall preserve the existing remnants of Fortress Rosecrans and the city shall operate and maintain the fortress.]

SEC. 2. AGREEMENT.

The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, containing each of the following provisions—

(1) If the city agrees to acquire sufficient interest in land to construct a trail linking the battlefield with Fortress Rosecrans, to construct such trail, and to operate and maintain the trail in accordance with standards approved by the Secretary, the Secretary shall (A) transfer to the city the funds available to the Secretary for the acquisition of such lands and for the construction of the trail, and (B) provide technical assistance to the city and to Rutherford County for the purpose of development and planning of the trail.

(2) The Secretary shall agree to accept the transfer by donation from the city of the remnants of Fortress Rosecrans at Old Fort Park, and following such transfer, to preserve and interpret the fortress as part of the battlefield.

"(3) In administering the Fortress Rosecrans, the Secretary is authorized to enter a cooperative agreement with the city of Murfreesboro, Tennessee for the rendering, on a nonreimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

SEC. 3. PLANNING.

(a) PREPARATION OF PLAN FOR REDOUBT BRANNAN.—The Secretary shall, on or before February 1, 1992, prepare a plan for the preservation and interpretation of Redoubt Brannan.

(b) UPDATE OF GENERAL MANAGEMENT PLAN.—The Secretary shall, on or before March 31, 1993, update the General Management Plan for the Stones River National Battlefield.

(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance to the city and to Rutherford County in the development of zoning ordinances and other land use controls

that would help preserve historically significant areas adjacent to the battlefield.

(d) MINOR BOUNDARY REVISIONS.—If the planning activities conducted under subsections (a) and (b) of this section show a need for minor revisions of the boundaries indicated on the map referred to in section 1 of this Act, the Secretary may, following timely notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so and providing an opportunity for public comment, make such minor revisions by publication of a revised boundary map or other description in the Federal Register.

SEC. [3.] *4.* AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as many be necessary to carry out the purpose of this Act.

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